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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,093	03/19/2004	Shigeru Maruyama	043034-0182	7905

22428 7590 07/02/2008  
FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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JACKSON, JAKIEDA R

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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07/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/804,093	<b>Applicant(s)</b> MARUYAMA, SHIGERU	
	<b>Examiner</b> JAKIEDA R. JACKSON	<b>Art Unit</b> 2626	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-4, 6, 7, 9-12, 14 and 15.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/David R Hudspeth/  
Supervisory Patent Examiner, Art Unit 2626

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues that Irisawa et al. describes switching between a requiring mode and a non-requiring mode of password code checking, which is enabled by an IC card with a CPU for accessing an EEPROM. Certain data regions of the EEPROM can be accessed by the IC card without password code checking, and other data regions of the EEPROM can only be accessed by the IC card with password code checking being performed. See Abstract. Applicant argues that the accessing of particular regions in an EEPROM of an IC card connected to a cellular phone in accordance with password checking or non-checking being performed based on checking flags existing or not existing in those regions of memory, is much different than allowing voice communications to a telephone number. Thus, it is submitted that one skilled in the art would not be motivated to combine Irisawa et al., which teaches the use of password checking or non-checking based on accesses to particular regions of a writable memory provided in an IC card, to telephone call access devices and methods (such as described in Susen et al.) or computer login devices and methods (such as described in Pathuel). Applicant further argues that Irisawa is concerned about privacy issues related to personal information that may be stored in particular regions of the EEPROM of the IC card, which is not pertinent to the call/no-call features based on password checking being made (or not being made) as recited in the presently pending claims. Accordingly, Applicant argues that since one skilled in the art would not be motivated to combine the teachings of Pathuel, Susen et al. and Irisawa et al. as asserted in the Office Action, the presently pending claims are patentable over the cited art of record, whereby Hongwei does not provide any rationale for making such a combination of Pathuel, Susen et al. and Irisawa et al. Applicant's arguments are not persuasive. Firstly, In response to applicant's argument that Irisawa is concerned about privacy issues related to personal information that may be stored in particular regions of the EEPROM of the IC card, which is not pertinent to the call/no-call features based on password checking being made (or not being made) as recited in the presently pending claims, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Applicant's invention is an authorized use prevention apparatus (see preamble) and Irisawa teaches a portable information processing device that enables switching between requiring mode and non requiring mode for the checking of a password code to use the device while ensuring adequate security. The Irisawa reference was combined with the Pathuel and Susen reference to teach that password checking is nothing new/novel in the art and that the process is done simple to ensure security. Therefore, Applicant's arguments are not persuasive.